

OCT 10 2013

JULIA C. DUDLEY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

ROGER DARNELL WHITING,
Plaintiff,

v.

INMATE MR. TUCKER,
Defendant.

Civil Action No. 7:13cv00466

MEMORANDUM OPINION

By: Samuel G. Wilson
United States District Judge

Plaintiff Roger Darnell Whiting, a Virginia inmate proceeding *pro se*, brings this civil rights action pursuant to 42 U.S.C. § 1983, against an inmate he names only as Mr. Tucker. Upon consideration of the Complaint, the court finds Whiting has failed to state a claim on which relief may be granted under 42 U.S.C. § 1983 because the defendant is not a person acting under color of state law and, therefore, dismisses Whiting's Complaint without prejudice.

To state a cause of action under 42 U.S.C. § 1983, a plaintiff must allege facts indicating he has been deprived of rights guaranteed by the Constitution or laws of the United States and that this deprivation resulted from conduct committed *by a person acting under color of state law*. West v. Atkins, 487 U.S. 42 (1988) (emphasis added). Whiting has asserted unintelligible claims the court cannot decipher. It is clear, however, Whiting has not alleged Mr. Tucker was a state actor or acting under color of state law. Nor can the court glean any information from Whiting's Complaint to suggest the same. Therefore, the court dismisses Whiting's Complaint, without prejudice, for failure to state a claim on which relief may be granted under 28 U.S.C. § 1915(e)(2)(B)(ii).

ENTER: This 10th day of October, 2013.


United States District Judge